IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8523 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE R.R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

N P PAINTER

Versus

DISTRICT DEVELOPMENT OFFICER

Appearance:

MR PRADEEP PATEL for Petitioner

MR DC DAVE for Respondent No. 1

MR SP HASURKAR for Respondent No. 2

CORAM : MR.JUSTICE R.R.TRIPATHI

Date of decision: 03/05/2000

ORAL JUDGEMENT :

The present Special Civil Application is filed by the petitioner who was working as an Additional Assistant

Engineer and retired on 31.1.1998. It is the case of the petitioner that he was drawing salary in the scale ofRs.2000- 3500/- when he retired. It is also the case of the petitioner that all other Additional Assistant Engineers working with the respondents are also getting the salary in the said pay scale. The petitioner has stated that the aforesaid pay scale was revised with effect from 1.4.1992 in place of his earlier pay scale of Rs.1640- 2900/-. The petitioner has also stated that after his retirement from 31.1.1998, the pension papers of the petitioner were prepared on the basis of the same pay scale, i.e. Rs.2000- 3500/-. The petitioner is aggrieved as an objection is taken by the Local Fund Audit which stated that the pension of the petitioner is to be fixed in the pay scale of Rs.1640- 2900/- and not in the pay scale of Rs.2000- 3500/-. It is also the case of the petitioner that all the Additional Assistant Engineers, presently working with the Panchayats as well as with the State Governments are getting salary in the pay scale of Rs.2000- 3500/- and therefore, there is no question of Local Fund Audit taking any objection in the case of the petitioner and asking the authorities to fix the pension in the pay scale of Rs.1640- 2900/-. The petitioner has prayed for the award of interest on the amount of pension, which is delayed by now for a period more than one and half year on the date of filing of the petition. The petitioner has produced a copy of a letter dated 12.7.1999 whereby the pension of the petitioner was sanctioned. The petitioner has also produced a Resolution of the Panchayat, Rural Housing and Rural Department bearing No.PR- R 1094/878/ D dated 14th May 1998 whereby it is resolved that the persons working as Supervisor in the construction Branch are redesignated as Additional Assistant Engineers.

2. The petitioner has also set out in para 3 of the petition that,

> "That the Panchayat, which was not giving the salary to its Additional Assistant Engineers in the revised pay scale from 1.4.1992 had approached this Hon'ble Court by way of filing Special Civil Application No.7883 of 1996, which was allowed by this Hon'ble Court (Coram : S.K.Keshote, J.) on 22.6.1999 and held that the Additional Assistant Engineers working in the State Govt. and working with the Panchayats are to be treated equally and their salary should be fixed in the same pay scale in which the Additional Assistant Engineers working with the Govt. are getting."

3. Notice was issued in the matter on 6.3.2000. Thereafter, the matter was adjourned from time to time and on 18.4.2000, rule was issued as the respondent authorities had not filed any counter to the petition despite service. Thereafter, an affidavit sworn on 18.4.2000 came to be filed. Said affidavit is sworn by one Shri S.G. Yadav, District Assistant Examiner, Local Fund Audit, Valsad. Said affidavit has stated in para 2B that,

> "It is stated that in the present case the pay scales for which the petitioner is entitled as per Govt. orders are given in 'A' below. And the pay scales the petitioner has been given erroneously are shown in 'B' as under :

	A	B
R.O.P w.e.f. 1.1.86	Rs.1400- 2300	Rs.1400- 2300 w.e.f. 1.1.86 Rs.1640- 2900 w.e.f. 1.4.92
Higher Grade w.e.f. 1.6.87	Rs.1640- 2900	Rs.2000- 3500 w.e.f. 1.6.87
R.O.P. w.e.f. 1.1.96	Rs.5500- 9000	Rs.6500- 10500 w.e.f. 1.1.96

> .. .. .. However, the Executive Engineer, District Panchayat, Valsad had fixed the pay in the pay scales given in 'B' above. The same had been approved by Local Fund Audit."

The said affidavit mentions in para 3 as under :

> "It is submitted in respect of para no.3 of the petition that the prescribing of pay scales for the various posts in Govt. service and in Panchayat service is the policy matter of the State Govt."

4. The said affidavit mentions that so far as the averments regarding Special Civil Application No.7883 of 1996 is concerned, the Govt. has filed LPA No.1257 of 1999 and that the latest position is not know to respondent no.2. It is also stated in the said para that the Government in Panchayat, Rural Housing and Rural

Development Department can clarify the position. On inquiry it is found that LPA No.1257 of 1999 in Special Civil Application No.7883 of 1996 is filed on 16.9.1999 and till date no orders are obtained in the said LPA.

5. In view of that position, the present petition is disposed of with the direction that the authorities shall decide the grievance of the petitioner within a period of eight weeks from the date of receipt of writ of this order on the basis of the judgement and order of this Court in Special Civil ApplicationNo.7883 of 1996 unless the order staying the said judgment and order of the learned Single Judge is obtained in the aforesaid LPA before the expiry of that period. The authorities are also directed to implement the decision taken pursuant to the aforesaid direction within further period of three months from the date of the decision.

6. The present petition is allowed to the aforesaid extent only. Rule is made absolute accordingly with no order as to costs.

(Ravi R. Tripathi, J.)

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